



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner: Donald W. Underwood  
(703) 308-1112 (ph)  
Applicants: Kevin D. Kaschke, Phillip G. Spaniol, and Steven J. Spaniol  
Intl. Appl. No.: PCT/US98/18376 Docket No.: FT0002R  
Intl. Filing Date: 23 October 1998 Priority Date: None  
Nat'l. Appln. No.: 09/830,005 Group Art Unit: 3652  
Nat'l. Filing Date: 21 April 2001  
Entitled: Agricultural Bale Accumulator And Method Therefor

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Kevin D. Kaschke  
3105 King Alford Court  
St. Charles, IL 60174

January 30, 2009

**Petition for Request for Withdrawal of Holding of Abandonment  
pursuant to 37 CFR 1.181(a) and pursuant to MPEP 711.03(c)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

A. Responsive to the Notice of Abandonment dated December 23, 2008 for the above-identified patent application, the applicants hereby submit a Petition for Request for Withdrawal of Holding of Abandonment pursuant to 37 CFR 1.181(a) and pursuant to MPEP 711.03(c).

B. The Applicant submits that the patent application is not in fact abandoned because the Applicant timely mailed a reply to the Office Action dated May 29, 2008.

C. Pursuant to 37 CFR 1.8(b), the Applicant submits that the reply is timely filed by being mailed in accordance with 37 CFR 1.8(a), but was not received in the U.S. Patent and Trademark Office, after a reasonable amount of time has elapsed from the time of mailing of the reply, and after receiving the Notice of Abandonment mailed December 23, 2008.

C. Pursuant to 37 CFR 1.8(b), the Applicant's reply is considered timely, because the undersigned party, Kevin D. Kaschke, who forwarded the correspondence:

- (1) Informed the Office of the previous mailing of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence, by this written Petition, and by a telephone call to Examiner Underwood, at 571-272-

6933, on Thursday, January 29, 2009, who confirmed that the correspondence has not been received.

- (2) Supplied an additional copy of the previously mailed correspondence and certificate, each dated December 1, 2008 (individually hereinafter referred to as the "Correspondence" and the "Certificate" and together referred to as the "Mailing") in reply to the Office Action dated May 29, 2008, as enclosed herewith.
- (3) Included a statement, as follows:

Statement pursuant to 37 CFR 1.8(b)(3)

1. The undersigned, Kevin D. Kaschke, attests on a personal knowledge basis, that the previous Mailing was timely mailed.
2. Kevin D. Kaschke personally prepared the Mailing in reply to the Office Action dated May 29, 2008, as follows:
  - a. The Mailing included: the Certificate (1 pg.), a Request for Continued Examination (RCE) Transmittal (1 pg.), a fee (Check) (1pg.), a Petition for an Extension of Time (1 pg.), a Request for Continued Examination (RCE) Letter (2 pgs.), General Transmittal Form (1 pg.), an Amendment And Response (21 pages), and a Return Receipt Postcard (1 pg.), for a total submission of 29 pages.
3. Kevin D. Kaschke personally mailed the Mailing with the United State Post Service (hereinafter the "USPS"), as follows:
  - a. Kevin D. Kaschke hand delivered the Mailing to a postal clerk at an office of the USPS, located at 616 E. Main St., Saint Charles, IL 60174-2165, on December 1, 2008.
  - b. Kevin D. Kaschke witnessed the postal clerk determine a final mailing price for the Mailing of \$1.68 based on a zip code of 22313 for Alexandria, VA, zone 4, first class, a large envelope, and a weight of 5.2 oz., as indicated on a USPS sales receipt.
  - c. Kevin D. Kaschke witnessed the postal clerk process a USPS Certificate of Mailing for Kevin D. Kaschke at an additional charge of \$1.10.
  - d. Kevin D. Kaschke received from the postal clerk of the USPS a sales receipt in an amount of \$2.78 (i.e., \$1.68 + \$1.10) (hereinafter the "Sales Receipt").
  - e. Kevin D. Kaschke witnessed the postal clerk of the USPS print and adhere a postage label, representing the calculated postage of \$1.68, on the envelope of the Mailing.
  - f. Kevin D. Kaschke paid the amount of \$2.78 on the Sales Receipt by a Discover credit card, as indicated on the sales receipt.
  - g. Kevin D. Kaschke left the Mailing in the possession of the postal clerk with a reasonable basis for expecting that the USPS would mail the Mailing on December 1, 2008.

4. Kevin D. Kaschke submits, as evidence that the previous Mailing was timely mailed, a true and exact copy of the following papers:
  - a. The Certificate of Mailing under 37 CFR 1.8, prepared, signed, and mailed by Kevin D. Kaschke on Monday, December 1, 2008, providing evidence that the Mailing in fact was mailed by Kevin D. Kaschke. The Applicant submits three different versions of the Certificate of Mailing under 37 CFR 1.8, as follows:
    - 1) A separate letter prepared by the Applicant in the Mailing.
    - 2) At the bottom of the Transmittal Form PTO/SB/21 in the Mailing.
    - 3) At the bottom of the RCE Transmittal Form PTO/SB/30 in the Mailing.
  - b. The Certificate of Mailing from the United State Post Service, dated December 1, 2008, providing independent third party evidence that the Mailing in fact was received by the USPS for mailing.
  - c. The Sales Receipt from the United State Post Service, dated December 1, 2008, at a time of 12:57:08 PM, providing independent third party evidence that the USPS in fact received, weighed, processed a USPS Certificate of Mailing for, and received payment for the Mailing, as described under points 3a to 3g herein above of this Statement.
  - d. Kevin D. Kaschke's Discover Card Statement of Charges having a closing date of December 13, 2008, and stating a charge for "Government Services" having a posted and transaction date of December 1, 2008, by "USPS 1615400175 ST CHARLES IL" for an amount of \$2.78, corresponding to the total amount due on the Sales Receipt.
5. Other evidence that may have proved that the USPTO at least received the Mailing, and that would have provided prima facie evidence that the Mailing was timely filed, does not appear to be available, for the following reasons:
  - a. Kevin D. Kaschke has not received the Return Receipt Postcard, which was enclosed in the Mailing. A copy of the Return Receipt Postcard, however, is enclosed herewith, as evidence that it was included in the Mailing.
  - b. Kevin D. Kaschke verified that Check No. 1247, which was enclosed in the Mailing, has not been cashed. A copy of the Check No. 1247, however, is enclosed herewith, as evidence that it was included in the Mailing.
  - c. Kevin D. Kaschke submits that the entire Mailing may be lost, misplaced, or significantly delayed with the USPS or with the USPTO, considering that the Return Receipt Postcard has not been returned by the USPTO and that the USPTO has not cashed the Check.
6. In summary, Kevin D. Kaschke submits that the six pieces of submitted evidence described herein and underlined above under points 4 and 5 of this Statement, individually and/or in combination, provide sufficient evidence that the Mailing was timely mailed.
7. Pursuant to MPEP 512, this Statement not required to be verified.

D. This Petition is timely filed on Friday, January 30, 2009, under the Certificate of Mailing pursuant to 37 CFR 1.8, within the two month, not extendable, statutory time period set for reply pursuant to 37 CFR 1.181(f), which began on the mailing date of December 23, 2008 of the Notice of Abandonment, and which expires two months thereafter on Monday, February 23, 2009.

E. This Petition does not require a fee, pursuant to MPEP 711.03(c), under comment "I" (Petition to Withdraw Holding of Abandonment), paragraph one.

F. The Applicant respectfully requests that the Office withdraw the holding of abandonment, and enter for consideration the amendment and response submitted on December 1, 2008, of which a copy is enclosed herewith.

G. The Applicant hereby submits a new check in an amount of \$1096.00 for the fees associated with the Mailing. Kevin D. Kaschke will instruct his bank, Bank of America, to stop payment on the Check No. 1247 previously sent with the Mailing, as a safety precaution against potential check fraud or potential duplicate payment, as it appears that the Mailing may be lost or misplaced.

H. Any inquiry related to this response should be communicated to Kevin D. Kaschke at the address and phone number, and as noted herein.

Respectfully submitted,  
Kaschke, et al.

January 30, 2009  
By: Kevin D. Kaschke  
Kevin D. Kaschke  
Applicant/Inventor/Attorney  
Registration No. 35,767  
Phone: (630) 377-6759



# **Notice of Abandonment**

Application No.

09/830,005

Examiner

Donald Underwood

Applicant(s)

SPANIOL ET AL.

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 29 May 2008.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

02/03/2009 HUUDNG1 00000080 09830005

01 FC:2255

1096.00 0P

/Donald Underwood/  
Primary Examiner, Art Unit 3652

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



## TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

39

Application Number	09/830,005
Filing Date	April 4, 2001
First Named Inventor	Kaschke, et al
Art Unit	3562
Examiner Name	Underwood
Attorney Docket Number	FT0002R

### ENCLOSURES (Check all that apply)

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Fee Transmittal Form<br><input type="checkbox"/> Fee Attached<br><input type="checkbox"/> Amendment/Reply<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Reply to Missing Parts/<br>Incomplete Application<br><input type="checkbox"/> Reply to Missing Parts<br>under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)<br><input type="checkbox"/> Licensing-related Papers<br><input checked="" type="checkbox"/> Petition<br><input type="checkbox"/> Petition to Convert to a<br>Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation<br>Change of Correspondence Address<br><input type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Request for Refund<br><input type="checkbox"/> CD, Number of CD(s) _____<br><input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication to TC<br><input type="checkbox"/> Appeal Communication to Board<br>of Appeals and Interferences<br><input type="checkbox"/> Appeal Communication to TC<br>(Appeal Notice, Brief, Reply Brief)<br><input type="checkbox"/> Proprietary Information<br><input type="checkbox"/> Status Letter<br><input checked="" type="checkbox"/> Other Enclosure(s) (please identify<br>below): |
|--|---|--|

#### Remarks

1. Present Mailing: 10 pages including: Cert. of Mailing (1pg), Discover Stmt (1pg), USPS Sales Receipt (1/2pg), USPS Cert. of Mailing (1/2pg), New Fee (Check) for previous response (1pg), Return postcard (1pg).
2. Copy of previous Mailing dated and mailed Dec. 1, 2008: 29 pages.

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

Signature

*Kevin D. Kaschke*

Printed name

Kevin D. Kaschke

Date

January 30, 2009

Reg. No.

35,767

### CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature

*Kevin D. Kaschke*

Typed or printed name

Kevin D. Kaschke

Date

January 30, 2009

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

*Examiner:* Donald W. Underwood  
(703) 308-1112 (ph)  
*Applicants:* Kevin D. Kaschke, Phillip G. Spaniol, and Steven J. Spaniol  
*Intl. Appl. No.:* PCT/US98/18376 *Docket No.:* FT0002R  
*Intl. Filing Date:* 23 October 1998 *Priority Date:* None  
*Nat'l. Appln. No.:* 09/830,005 *Group Art Unit:* 3652  
*Nat'l. Filing Date:* 21 April 2001  
*Entitled:* Agricultural Bale Accumulator And Method Therefor

---

Kevin D. Kaschke  
3105 King Alford Court  
St. Charles, IL 60174

January 30, 2009

**Certificate of Mailing Under 37 CFR 1.8**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:


**Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450**

**on Friday, January 30, 2009, by Kevin D. Kaschke.**

This certificate applies to the following papers mailed herewith:

1. The present mailing including:  
this Certificate (1 pg.), a Petition for Request for Withdrawal of Holding of Abandonment (4 pgs.), a general transmittal form (1 pg.), a fee payment in the form of a check (1pg.), USPS Certificate of Mailing (1/2 pg), USPS sales receipt (1/2 pg.), Discover Company statement (1 pg.) and a return receipt post card (1 pg.). Total pages: 10.
2. A copy of a previous mailing on December 1, 2008 including:  
this Certificate (1 pg.), a Request for Continued Examination (RCE) Transmittal (1 pg.), a fee (check) (1pg.), a Petition for an Extension of Time (1 pg.), a Request for Continued Examination (RCE) Letter (2 pgs.), general transmittal form (1 pg.), an amendment and response (21 pages), and a return receipt post card (1 pg.). Total pages: 29. (Note the Check and the postcard copies are on one page now.)

Respectfully submitted,  
Kaschke, et al.

By:   
Kevin D. Kaschke  
Attorney/Applicant/Inventor  
Registration No. 35,767  
Phone: (630) 377-6759

ST CHARLES POSTAL RETAIL STORE  
ST CHARLES, Illinois  
601742164

1615400175-0095  
12/01/2008 (800)275-8777 12:57:08 PM

Sales Receipt		
Product	Sale Unit	Final
Description	Qty Price	Price

ALEXANDRIA VA 22313		\$1.68
Zone-4 First-Class		
Large Env		
5.20 oz.		

Issue PVI: \$1.68

Certificate of Mailing 1 \$1.10 \$1.10

Total: \$2.78

Paid by:  
Discover \$2.78

Account #: XXXXXXXXXXXX  
Approval #: 001693  
Transaction #: 213  
239033321951602870576

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### Certificate of Mailing

This Certificate of Mailing provides evidence that mail has been presented to USPS® for mailing. This form may be used for domestic and international mail.

From:

Kevin Kaschke  
3105 King Alfred Ct  
Saint Charles, IL 60177

To:

Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1456  
Alexandria, VA 22313-01456




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Closing Date: December 13, 2008

page 2 of 2

### Warehouse Clubs

Dec 11 Dec 11

Total of New Act

### KASCHKE, KEVIN D

Account number ending in 

	Trans. Date	Post Date
Restaurants	Nov 21	Nov 21
	Dec 4	Dec 4
	Dec 5	Dec 5
Travel/Entertainment	Nov 26	Nov 26

Nov 26 Nov 26

### Services

Dec 3 Dec 3

### Supermarkets

Dec 9 Dec 9

### Government Services

Dec 1 Dec 1 USPS 1615400175 ST CHARLES IL

Total of New Activity for KASCHKE, KEVIN D

2.78

296.73

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Serial No. 09/830,005 - Phillip G. Spaniol, et al.

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**Examiner:** Donald W. Underwood  
(703) 308-1112 (ph)  
**Applicants:** Kevin D. Kaschke, Phillip G. Spaniol, and Steven J. Spaniol  
**Intl. Appl. No.:** PCT/US98/18376  
**Intl. Filing Date:** 23 October 1998  
**Nat'l. Appln. No.:** 09/830,005  
**Nat'l. Filing Date:** 21 April 2001  
**Entitled:** Agricultural Bale Accumulator And Method Therefor

**Docket No.:** FT0002R  
**Priority Date:** None  
**Group Art Unit:** 3652

Kevin D. Kaschke  
3105 King Alford Court  
St. Charles, IL 60174

December 1, 2008

**Certificate of Mailing Under 37 CFR 1.18**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

on Monday, December 1, 2008, by Kevin D. Kaschke.

This certificate applies to the following papers mailed herewith:  
this Certificate (1 pg.), a Request for Continued Examination (RCE) Transmittal (1 pg.),  
a fee (check) (1pg.), a Petition for an Extension of Time (1 pg.), a Request for Continued  
Examination (RCE) Letter (2 pgs.), general transmittal form (1 pg.), an amendment and response  
(21 pages), and a return receipt post card (1 pg.).

Total pages submitted herewith including this page: 29 pages, including this page.

Respectfully submitted,  
Kaschke, et al.

By: Kevin D. Kaschke  
Kevin D. Kaschke  
Attorney/Applicant/Inventor  
Registration No. 35,767  
Phone: (630) 377-6759

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

29

Application Number

091830,005

Filing Date

04-21-2001

First Named Inventor

Kaschke, et al

Art Unit

3562

Examiner Name

D. Underwood

Attorney Docket Number

FT0002R

**ENCLOSURES (Check all that apply)**

- ☒ **Fee Transmittal Form** (1 pg)
- ☒ **Fee Attached** (\$1096) (1 pg)
- ☒ **Amendment/Reply** (21 pgs)
- ☒ **After Final**
- ☐ **Affidavits/declaration(s)**
- ☒ **Extension of Time Request** (1 pg)
- ☐ **Express Abandonment Request**
- ☐ **Information Disclosure Statement**

- ☐ **Drawing(s)**
- ☐ **Licensing-related Papers**
- ☐ **Petition**
- ☐ **Petition to Convert to a Provisional Application**
- ☐ **Power of Attorney, Revocation**
- ☐ **Change of Correspondence Address**
- ☐ **Terminal Disclaimer**
- ☐ **Request for Refund**
- ☐ **CD, Number of CD(s)**
- ☐ **Landscape Table on CD**

- ☐ **After Allowance Communication to TC**
- ☐ **Appeal Communication to Board of Appeals and Interferences**
- ☐ **Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)**
- ☐ **Proprietary Information**
- ☐ **Status Letter**
- ☐ **Other Enclosure(s) (please identify below):**

- ☐ **Certified Copy of Priority Document(s)**
- ☐ **Reply to Missing Parts/Incomplete Application**
- ☐ **Reply to Missing Parts under 37 CFR 1.52 or 1.53**

**Remarks**

Post card receipt (1pg)  
RCE Transmittal (1pg)  
RCE Letter (2pgs)  
Cert of Mailing (1pg)

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name

Signature

Printed name

Date

Kevin D. Kaschke

KEVIN D. KASCHKE

December 1, 2008

Reg. No.

35,767

**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature

Typed or printed name

Kevin D. Kaschke

KEVIN D. KASCHKE

Date

Dec 1, 2008

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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# Request for Continued Examination (RCE) Transmittal

Address to:  
Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Application Number	09/830,005
Filing Date	04-21-2001
First Named Inventor	KASCHKE, et al
Art Unit	3562
Examiner Name	Underwood
Attorney Docket Number	FT0002R

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_

ii. ☐ Other \_\_\_\_\_

b. ☒ Enclosed

i. ☒ Amendment/Reply

ii. ☐ Affidavit(s)/ Declaration(s)

iii. ☐ Information Disclosure Statement (IDS)

iv. ☒ Other Petition for 3 month extension of time.

## 2. Miscellaneous

a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

b. ☐ Other \_\_\_\_\_

## 3. Fees

The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed. The Director is hereby authorized to charge the following fees, any underpayment of fees, or credit any overpayments, to Deposit Account No. \_\_\_\_\_

i. ☒ RCE fee required under 37 CFR 1.17(e) \$405.00

ii. ☒ Extension of time fee (37 CFR 1.136 and 1.17) \$555.00

iii. ☒ Other New Indep. Claim (110.00). New dep claim (26)

b. ☒ Check in the amount of \$ 1096.00 enclosed

c. ☐ Payment by credit card (Form PTO-2038 enclosed)

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Signature	<u>Kevin D. Kaschke</u>	Date	<u>Dec. 1, 2008</u>
Name (Print/Type)	<u>KEVIN D. KASCHKE</u>	Registration No.	<u>35,167</u>

## CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Signature	<u>Kevin D. Kaschke</u>	Date	<u>Dec. 1, 2008</u>
Name (Print/Type)	<u>KEVIN D. KASCHKE</u>		

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Serial No. 09/830,005 - Kaschke, et al.

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**Examiner:** Donald W. Underwood  
(703) 308-1112 (ph)  
**Applicants:** Kevin D. Kaschke, Phillip G. Spaniol, and Steven J. Spaniol  
**Intl. Appl. No.:** PCT/US98/18376  
**Intl. Filing Date:** 23 October 1998  
**Nat'l. Appln. No.:** 09/830,005  
**Nat'l. Filing Date:** 21 April 2001  
**Entitled:** Agricultural Bale Accumulator And Method Therefor

**Docket No.:** FT0002R  
**Priority Date:** None  
**Group Art Unit:** 3652

Kevin D. Kaschke  
3105 King Alford Court  
St. Charles, IL 60174

December 1, 2008, 2008

**Request for Continued Examination (RCE) under 37 CFR 1.114**

Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Responsive to the Final Rejection dated May 29, 2008 for the above-identified patent application, the applicants hereby submit the present Request for Continued Examination (RCE) under 37 CFR 1.114, and MPEP 706.07(h).

Verification of a proper RCE filing under MPEP 706.07(h), III (Initial Processing):

- (A) The present RCE is filed on November 28, 2008, which is after May 29, 2000.
- (B) The present application was filed on April 21, 2001, which is after June 8, 1995.
- (C) The present application is a utility application.
- (D) The present application is pending because the present RCE is filed after the Final

Rejection was received but before a patent issued or became abandoned.

(E) The prosecution in the present application is closed because the last Office Action was a Final Rejection.

(F) The present RCE is filed before the payment of the issue fee.

(G) The present RCE is accompanied by the proper fee(s), including the RCE fee under 37 CFR 1.17(e) of \$405.00, plus a three month extension of time under 37 CFR 1.17(a)(3) of \$555.00, plus one additional independent claim (\$110), and one additional dependent claim (\$26), for a total fee of \$1096.00.

Serial No. 09/830,005 - Kaschke, et al.

(H) The present RCE includes a submission, as required by 37 CFR 1.114, in the form of an amendment to the claims, pursuant to 37 CFR 1.114(c).

As explained under MPEP 706.07(h), III, D (Treatment of Proper RCE), "the applicant does not need to pay a fee for excess claims previously paid for prior to filing the RCE. Of course, new claims in excess of the number previously paid for, which are filed with the RCE or thereafter, will require payment of the appropriate fee(s) under 37 CFR 1.16." The applicant has not submitted any new claims in excess of those claims previously paid for before filing the RCE. Hence, no claim fee is required.

Since the present RCE, including the fee and the submission, is filed in a pending application before payment of the issue fee, a petition under 37 CFR 1.313 to withdraw the application from issue is not required, pursuant to MPEP 706.07(h), IX.

This request and amendment is filed on Monday, December 1, 2008, under the Certificate of Mailing pursuant to 37 CFR 1.18, within the three month shortened statutory period set for reply in the Final Rejection dated May 29, 2007 plus a three month extension of time under 37 CFR 1.136(a), which expires Saturday, November 29, 2008, pursuant to MPEP 710.01(a).

The applicant respectfully requests that the Office withdraw the finality of the Notice of Allowance, and enter and consider the present amendment.

Any inquiry related to this response should be communicated to Kevin D. Kaschke at the address and phone number, and as noted herein.

Respectfully submitted,  
Kaschke, et al.

12-1-2008

By: Kevin D. Kaschke  
Kevin D. Kaschke  
Applicant/Inventor/Attorney  
Registration No. 35,767  
Phone: (630) 377-6759

Under the paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)

FY 2009

(Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).)

Docket Number (Optional)

FT0002R

Application Number

09/830,005

Filed

04-21-2001

For

Agricultural Bale Accumulator &amp; Method Therefor

Art Unit

3562

Examiner

Underwood

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):

	Fee	Small Entity Fee	
<input type="checkbox"/> One month (37 CFR 1.17(a)(1))	\$130	\$65	\$ _____
<input type="checkbox"/> Two months (37 CFR 1.17(a)(2))	\$490	\$245	\$ _____
<input checked="" type="checkbox"/> Three months (37 CFR 1.17(a)(3))	\$1110	\$555	\$ <u>555.00</u>
<input type="checkbox"/> Four months (37 CFR 1.17(a)(4))	\$1730	\$865	\$ _____
<input type="checkbox"/> Five months (37 CFR 1.17(a)(5))	\$2350	\$1175	\$ _____

☒ Applicant claims small entity status. See 37 CFR 1.27.☒ A check in the amount of the fee is enclosed.☐ Payment by credit card. Form PTO-2038 is attached.☐ The Director has already been authorized to charge fees in this application to a Deposit Account.☐ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number \_\_\_\_\_

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

I am the

☒ applicant/inventor.☐ assignee of record of the entire interest. See 37 CFR 3.71.

Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).

☒ attorney or agent of record. Registration Number 35,767☐ attorney or agent under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 \_\_\_\_\_

Kevin D. Kaschke

Signature

Dec. 1, 2008

Date

KEVIN D. KASCHKE

Typed or printed name

630-377-6759

Telephone Number

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☐ Total of \_\_\_\_\_ forms are submitted.

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Date Dec 1, 2008

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Kenn Kaehler

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- Cert. of Mailing (1) - Fee Transmittal (w/ RCE Transmittal)
- RCE Transmittal (1) - This postcard (1)
- RCE Letter (3) - Amendment  $\frac{1}{2}$  (21)
- Check (1) Response
- 3 mo. time ext. (1) - Post card (1)

29 pages total

Mailed: December 1, 2008, December 1, 2008

Docket No: FT000ZR

Inventor: Kaschke, et al

Appln: 09/830,005

Filed: 04-21-2001



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

*Examiner:* Donald W. Underwood  
(703) 308-1112 (ph)  
*Applicants:* Kevin D. Kaschke, Phillip G. Spaniol, and Steven J. Spaniol  
*Intl. Appl. No.:* PCT/US98/18376 *Docket No.:* FT0002R  
*Intl. Filing Date:* 23 October 1998 *Priority Date:* None  
*Nat'l. Appln. No.:* 09/830,005 *Group Art Unit:* 3652  
*Nat'l. Filing Date:* 21 April 2001  
*Entitled:* Agricultural Bale Accumulator And Method Therefor

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Kevin D. Kaschke  
3105 King Alford Court  
St. Charles, IL 60174

December 1, 2008

**Amendment and Response**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Commissioner:

Responsive to the office action dated May 29, 2008 for the above-identified patent application, the applicant hereby submits the following amendment and response.

1. Application Status.

- a. Under the present Final Office Action, claims 1-35 are pending in the application. Previously, claims 36-60 have been withdrawn from consideration, without prejudice.
- b. Claims 1-15 and 17-30 are rejected.
- c. Claims 16 and 31-35 are objected to.

2. Examiner's rejection.

a. The examiner rejected claims 1-15 and 17-30 under 35 USC 103(a) as being unpatentable over the known baler system disclosed by the applicants on page 1, lines 22-31 of their specification or in Lundahl, et al. in view of Van Eecke, et al. (U.S. Patent No. 4,955,774) and Vellidus, et al. and Hale, et al.

b. The examiner states: "It would also have been obvious to replace the controls in the known baler system or in Lundahl with controls as claimed in view of the automatic controls in Vellius and Hale since it would involve only routine skill to replacement manual means with

mechanical or automatic means which accomplish the same result. See *in re Venner*, 120 USPQ 192." The examiner further states: "To computerize these functions would be obvious to an artisan in view of the teachings of Hale and Vellidus."

### 3. Examination Requirements

#### a. *Graham v. John Deere* obviousness inquiry.

In making a *Graham v. John Deere* obviousness inquiry, the Examiner needs to:

- (1) determining the scope and content of the prior art;
- (2) ascertain the differences between the claimed invention and the prior art;
- (3) resolve the level of ordinary skill in the pertinent art; and
- (4) evaluate objective evidence relevant to the issue of obviousness, such as secondary considerations including commercial success, long-felt but unsolved need in the art, the failure of others to solve the problem solved by the inventors, unexpected results, etc.

#### b. All claim limitations must be considered.

To support an obviousness rejection, MPEP §2143.03 requires "All words in a claim must be considered in judging the patentability of that claim against the prior art," and MPEP § 2141.02 requires consideration of the "[claimed] invention and prior art as a whole." Further, the Board of Patent Appeal and Interferences recently confirmed that a proper, post-KSR obviousness determination still requires the Office make "a searching comparison of the claimed invention – including all its limitations – with the teaching of the prior art." *In re Wada and Murphy*, Appeal 2007-3733, citing *In re Ochiai*, 71 F.3d 1565, 1572 (Fed. Cir. 1995) and *CFMT v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003). In sum, it remains well-settled law that an obviousness rejection requires at least a suggestion of *all* of the claim elements.

#### c. Articulated reasoning with some rational underpinning.

The examiner must provide a sufficient reason or explicit analysis of why the disclosures of the references should be combined." *Ex Parte Erkey et al*, Appeal 20071375, Decided May 11, 2007 An Examiner's "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." (*In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006), cited with approval in *KSR Int'l v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007)) Unsupported assertions by the examiner are not adequate. For example, the Examiner may identify some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine

prior art reference teachings to arrive at the claimed invention, without using the claimed invention as a template for a hindsight reconstruction analysis.

3. Applicant's Response.

a. *Graham v. John Deere* obviousness inquiry.

1) Determine the scope and content of the prior art.

The present application teaches on page 1, lines 22-31: "An agricultural baler ("baler") is a widely used piece of mobile equipment which collects and compresses the crop material as it travels over the ground to produce a compact unit of crop, commonly referred to as a bale. The baler may comprise a motorized machine driven by an operator or, alternatively, may comprise a wheeled frame adapted for traveling alongside or behind a tractor. Typically, a baler is a wheeled chassis adapted for hitched connection to a tractor to be towed in tandem behind the tractor. After the baler forms a bale, a cord, such as wire or twine, is tied around the bale to hold the bale together in its compressed form. The baler ejects the tied bales periodically from a bale chamber of a baler as the baler travels over the ground. Each ejected bale may be directly discharged either to a bale accumulator or to the ground for later pick up by a bale collector in order to make the harvesting of the crop material more efficient and to decrease manual labor. Bales provided by either the bale accumulator or the bale collector may then be deposited on a vehicle, such as a tractor trailer, for hauling to another location for storage." (herein referred to as the "Applicant's disclosed baler")

Lundahl, et al teaches: "A hay baler including a trailer frame with a hitch for attachment to a prime mover and support wheels. A crop pick-up unit moves cut crop into a material storage area, from where it is moved into a bale chamber and is compacted by a compression unit and tied with twine before being discharged to ground from the rear of the trailer frame." (Abstract)

Van Eecke, et al. teaches: "Agricultural balers are in common use and operate to pick-up and compress crop material, such as hay, straw, etc., into bales and wrap completed bales with wire or twine. Wrapped bales are ejected periodically from the bale chamber of a baler as the latter travels over the field and each bale, on being ejected, normally is discharged directly to the ground.

In order to make the overall baling and bale hauling operation more efficient, it has already been proposed to provide a bale accumulator which is arranged to receive successive bales as they are discharged from a baler and to accumulate the bales into a group or parcel and then discharge the parcel to the ground." (col. 1, lines 23-34)

Vellidus, et al. teaches: "a crop yield monitoring system and method which can be used during harvesting of a crop, such as peanuts, pecans, Vidalia onions, and others, which are transported into a collection basket in order that crop yield can be determined based on measuring mass changes of the collection basket. The invention provides crop yield mapping data for evaluating crop yield at locations in a site-specific farming area." (col. 4, lines 16-23) "The peanut pods are

removed from the plant vines." (col. 5, line 27) An air delivery system conveys the peanut pods to the storage or collection basket 40 disposed on the top of the combine. (col. 5, lines 42-44)

Vellidus, et al. further teaches: "Yield monitoring of forage was attempted and described by Wild et al. in "Automatic Data Acquisition on Round Balers", ASAE Paper #94-1582, St. Joseph, Mich. 1994. A round baler was equipped with load cells that monitored the weight of the entire machine as the forage was collected. Preliminary results showed that individual bale weights could be accurately determined under static conditions, but excessive noise severely limited real time yield measurements. The tractor and baler also were instrumented with accelerometers to monitor vibration. Acceleration thresholds were used to screen data for real-time measurement, but the signal noise remained a severe limitation to forage yield monitoring." (col. 1, lines 43- 55)

Hale, et al. teaches "automatic scaling of a GPS field mapping system for an agricultural vehicle, such as a combine, planter or cultivator."

In summary of the cited references, Van Eecke, et al. and the Applicant's disclosure each teach a baler and a bale accumulator. Lundahl, et al teaches "a hay baler." Hale, et al. teaches "a field mapping system for an agricultural vehicle, such as a combine, planter or cultivator." Vellidus, et al. teaches "a crop yield monitoring system and method which can be used during harvesting of a crop, such as peanuts, pecans, Vidalia onions ..." using a combine, and a failed attempt of yield monitoring of forage with a round baler.

2) Ascertain the differences between the claimed invention and the prior art.

a) The applicant submits that the examiner's citation of Vellidus, et al. is improper because Vellidus, et al. teaches away from the present invention as claimed. As quoted above, Vellidus, et al. teaches a failed attempt at monitoring the yield of forage for a round baler because excessive noise severely limited real time yield measurements and signal noise remained a severe limitation to forage yield measurements. (col. 1, lines 43- 55)

Vellidus, et al. continues to teach: "The present invention provides a crop yield monitoring system and method based on measuring mass changes in a crop collection basket of a harvesting machine, such as a peanut combine, as a crop field is being harvested and including load cells supporting the collection basket and a data acquisition system for acquiring incremental load cell output and preferably using digital noise filtering to remove signal noise resulting from harmonic vibration of a one or more components of the harvesting machine, such as for example only, a straw walker mechanism of a peanut combine." (col. 3, lines 44-54) "The invention is advantageous to provide a crop yield monitoring system and method which can be used during harvesting of a crop, such as peanuts, pecans, Vidalia onions, and others, which are transported into a collection basket in order that crop yield can be determined based on measuring mass changes of the collection basket. The invention provides crop yield mapping data for evaluating crop yield at locations in a site-specific farming area. These advantages are obtained using load cells and other system components

mounted in a manner for ready retrofitting on existing combines and also as original equipment on new combines." (col. 4, lines 16-26)

Even after Vellidus, et al. describes their invention and advantages, as summarized above, Vellidus, et al. does not describe how their invention and advantages can be applied to solve the problems described with the round baler. The applicant submits that the problems with the round baler remain unsolved because the round baler does not "harvest a crop, such as peanuts, pecans, Vidalia onions, and others, which are transported into a collection basket in order that crop yield can be determined based on measuring mass changes of the collection basket," as described by Vellidus, et al. More specifically, the described round baler does not appear to have a "collection basket" to which the invention in Vellidus, et al. may be applied.

Therefore, the applicant submits that "a person of ordinary skill in the art" would not consider combining the teachings of Vellidus, et al. with the other cited references, because Vellidus, et al. explicitly teaches a failed attempt at monitoring the yield of forage for a round baler, and the solution in Vellidus, et al. does not appear to apply to a round baler.

Moreover, the applicant submits that "a person of ordinary skill in the art" would not consider combining the teachings of Vellidus, et al. with the other cited references to create the claimed invention, because none of the other cited references has a "collection basket," which is used by Vellidus, et al.

b) Although Hale, et al. teaches "automatic scaling of a GPS field mapping system for an agricultural vehicle, such as a combine, planter or cultivator," the present invention does not claim "automatic scaling of a GPS field mapping system." Although Hale, et al. teaches a GPS receiver used for "an agricultural vehicle, such as a combine, planter or cultivator," Hale, et al. does not teach or suggest how, when, why, where, etc. the GPS receiver may be used for the claimed agricultural bale accumulator.

c) Neither Hale, et al. nor Vellidus, et al. teaches or suggests the claimed "agricultural bales of crop material." Therefore, Hale, et al. or Vellidus, et al. is not properly modifiable by either the Applicant's disclosed baler or Lundahl, et al teaching of "a hay bale" when its intended function is destroyed because of the difference in the crop material among the cited references.

d) Neither Hale, et al. nor Vellidus, et al. teaches or suggests the claimed "an agricultural bale accumulator adapted to receive agricultural bales of crop material." Therefore, Hale, et al. or Vellidus, et al. is not properly modifiable by either the Applicant's disclosed baler or Lundahl, et al teaching of "a hay baler for producing hay bales" when its intended function is destroyed because of the difference in transporting the crop material among the cited references.

e) Neither Hale, et al. nor Vellidus, et al. teaches or suggests the claimed: "crop material formed by and ejected from an agricultural baler." Therefore, Hale, et al. or Vellidus, et al. is not properly modifiable by either the Applicant's disclosed baler or Lundahl, et al teaching of "a

hay baler for producing hay bales” when its intended function is destroyed because of the difference in machinery forming and handling the crop material.

f) Nowhere does Hale, et al., Vellidus, et al., the Applicant’s disclosed baler or Lundahl, et al, either alone or in combination, teach or suggest the use of site-specific farming (e.g., GPS) in combination with “an agricultural bale accumulator” and “agricultural bales of crop material,” as claimed. There is no basis in one or more of the cited references for combining the teachings of the cited references or modifying the four cited references to meet the claimed limitations.

g) Nowhere does Hale, et al., Vellidus, et al., the Applicant’s disclosed baler or Lundahl, et al, either alone or in combination, teach or suggest the problems or the problems’ source, associated with the claimed “agricultural bale accumulator” and “agricultural bales of crop material.” Therefore, teachings of the cited references, either alone or in combination, cannot provide a solution to the problems associated with the claimed “agricultural bale accumulator.”

h) The cited references, in combination, teach away from the claimed limitations of the “a controller adapted to generate a control signal to control an operation of the agricultural bale accumulator, while the agricultural bale accumulator receives, accumulates, and/or discharges the agricultural bales and while the agricultural baler tows the agricultural bale accumulator across the agricultural field, in response to receiving a location signal, representative of a location of the agricultural bale accumulator in the agricultural field, to cause the agricultural bale accumulator to perform the operation, while the agricultural bale accumulator receives, accumulates, and/or discharges the agricultural bales and while the agricultural baler tows the agricultural bale accumulator across the agricultural field, in response to the location of the agricultural bale accumulator in an agricultural field,” because Hale, et al. and Vellidus, et al. each teach a different machine, a different way to control the machine, a different crop material, a different way to harvest the different crop material, and a different way to transport the different crop material.

3) Resolve the level of ordinary skill in the pertinent art.

The examiner has not resolved the level of ordinary skill in the pertinent art, as part of the *Graham v. John Deere* obviousness inquiry.

4) Evaluate objective evidence relevant to the issue of obviousness.

Secondary evidence supporting non-obviousness includes the following.

(a) The claimed invention provides long felt but unsolved needs for an improved agricultural bale accumulator advantageously providing increased bale accumulating capacity, and/or intelligent bale receipt, accumulation, and bale discharge operations to permit efficient, flexible, and desirable harvesting of hay and forage crop material.

(b) Others have failed to recognize a need for an improved agricultural bale accumulator, and have failed to provide the claimed invention for an agricultural bale accumulator despite of a length of time that agricultural bale accumulators and position location systems have been known.

b. All claim limitations must be considered.

The Applicant has amended claims 1 and 26 to claim at least: "a controller adapted to generate a control signal to control an operation of the agricultural bale accumulator, while the agricultural bale accumulator receives, accumulates, and/or discharges the agricultural bales and while the agricultural baler tows the agricultural bale accumulator across the agricultural field, in response to receiving a location signal, representative of a location of the agricultural bale accumulator in the agricultural field, to cause the agricultural bale accumulator to perform the operation, while the agricultural bale accumulator receives, accumulates, and/or discharges the agricultural bales and while the agricultural baler tows the agricultural bale accumulator across the agricultural field, in response to the location of the agricultural bale accumulator in an agricultural field."

The present amendment further defines the operation of the controller to distinguish the amended claims over the cited references. Therefore, the Applicant respectfully submits that the teachings Van Eecke, et al. and Hale, et al. and Vellidus, et al. in combination with the teaching of the Applicant's disclosed baler or Lundahl, et al is not the same as and/or does not render obvious the claimed invention, for at least the following reasons.

1) There is no basis in one or more of the four cited references for modifying one or more of the four cited references to meet the amended claimed limitations.

2) Further, dependent claims 2-25 and dependent claims 27-35 include additional limitations that further define the present invention to further distinguish over the cited references. For example, none of the disclosed references teach or suggest: counting one or more of the agricultural bales (claim 2), determining a size of one or more of the agricultural bales (claim 3), determining a moisture content of one or more of the agricultural bales (claim 4), determining a weight of one or more of the agricultural bales (claim 5), determining a location of one or more of the agricultural bales discharged in the agricultural field from the load bed (claim 6), determining a distance traveled in the agricultural field by the agricultural bale accumulator (claim 7), determining a path traveled in the agricultural field by the agricultural bale accumulator (claim 8), determining a contour of the agricultural field traveled by the agricultural bale accumulator (claim 9), and determining a size of the agricultural field traveled by the agricultural bale accumulator (claim 10).

c. Articulated reasoning with some rational underpinning.

The applicant submits that the examiners statements of: "It would also have been obvious to replace the controls in the known baler system or in Lundahl with controls as claimed in view of the automatic controls in Vellius and Hale since it would involve only routine skill to replacement manual means with mechanical or automatic means which accomplish the same result. See in re Venner, 120 USPQ 192." and "To computerize these functions would be obvious to an artisan in view of the teachings of Hale and Vellidus." are conclusory statements that do not provide articulated reasoning with some rational underpinning to support the legal conclusion of obviousness, as required for a proper examination.

As Van Eecke, et al. already teaches: "In order to make the overall baling and bale hauling operation more efficient, it has already been proposed to provide a bale accumulator which is arranged to receive successive bales as they are discharged from a baler and to accumulate the bales into a group or parcel and then discharge the parcel to the ground." (col. 1, lines 23-34) For example, in Fig. 6, Van Eecke, et al. teaches an electronic/hydraulic control system for automatically and mechanically rotating a bale (e.g., 103), transferring a bale (e.g., 203), and discharging a bale (e.g., 310). Therefore, merely replacing manual functions with automatic functions has already been taught by Van Eecke, et al.

However, in conventional bale accumulators like Van Eecke, et al., automatic and mechanical functions are based on predetermined, fixed, and duplicated operations, as determined by an electronic controller or processor. Such predetermined, fixed, and duplicated operations generally include receiving fully ejected bales from the baler, sliding each bale over one bale position after it is received, and discharging all of the accumulated bales when the accumulator is full. In other words, conventional bale accumulators do the same sequence of steps over and over again in the same way no matter where the bale accumulator is located in the field. Therefore, not only are the examiner's statements conclusory, but such statements describe conventional bale accumulator operation.

The Examiner's proposed combination suggests more than merely replacing manual mean with mechanical means or automatic means to accomplish the same result for at least the following reasons:

- 1) There is no teaching or suggestion in Van Eecke, et al., the Applicant's conventional disclosure, or Lundahl, et al for: "a controller adapted to generate a control signal to control an operation of the agricultural bale accumulator, while the agricultural bale accumulator receives, accumulates, and/or discharges the agricultural bales and while the agricultural baler tows the agricultural bale accumulator across the agricultural field, in response to receiving a location signal, representative of a location of the agricultural bale accumulator in the agricultural field, to cause the agricultural bale accumulator to perform the operation, while the agricultural bale accumulator receives, accumulates, and/or discharges the agricultural bales and while the agricultural baler tows



the agricultural bale accumulator across the agricultural field, in response to the location of the agricultural bale accumulator in an agricultural field," as claimed.

2) There is no teaching or suggestion in either Vellidus, et al. or Hale et al for: "a controller adapted to generate a control signal to control an operation of the agricultural bale accumulator in response to receiving a location signal, representative of a location of the agricultural bale accumulator in an agricultural field, to cause the agricultural bale accumulator to perform the operation in response to the location of the agricultural bale accumulator in an agricultural field," as claimed.

3) Hale, et al. and Vellidus, et al. each teach a different machine, a different way to control the machine, a different crop material, a different way to harvest the different crop material, and a different way to transport the different crop material than what is disclosed in Van Eecke, et al., the Applicant's conventional disclosure, and/or Lundahl, et al. Therefore, the Examiner's assertion of accomplishing the "same result" is not physically possible.

4) The claimed combination does more than replace manual means with mechanical means or automatic means by providing new structure, function, and associated advantages not found in the cited prior art, either alone or in combination. In other words, the claimed combination provides an improved agricultural bale accumulator that advantageously provides intelligent and dynamic operations during bale receipt, accumulation, and bale discharge in response to field positions of the bale accumulator to permit efficient, flexible, and desirable harvesting of hay and forage crop material, which has not been possible or would have been very difficult to provide either manually or automatically with conventional bale accumulators, like Van Eecke, et al.

5) The Examiner's general assertion that the control systems of Vellidus, et al. and Hale can be combined with the agricultural bale accumulator disclosed in the Applicant's conventional disclosure or in Lundahl, et al to render the present invention obvious is overly broad and without adequate support, as required.

6) As stated in recent Board of Patent Appeal cases, the applicant submits that:

a) "There is no evidence or suggestion in [the cited references] of such a configuration" *Ex Parte Katoh et al*, Appeal 20071460, Decided May 29, 2007.

b) "Further, the Examiner has not provided any evidence that it was conventional in the art to [provide the claimed invention]" *Ex Parte Owlett*, Appeal 20070644, Decided June 20, 2007

c) "We determine that the Examiner has not provided a sufficient reason or explicit analysis of why the disclosures of the references should be combined." *Ex Parte Erkey et al*, Appeal 20071375, Decided May 11, 2007.

d) "We find no suggestion to combine the teachings and suggestions of [the cited references], as advanced by the Examiner, except from using Appellants' invention as a template through hindsight.

7) The Board of Patent Appeals is also citing the *KSR* case to rebut prima facie cases of obviousness where "common sense" dictates that the claimed invention was not obvious, such as for the reasons described by the applicant herein.

For at least these reasons, the cited references, either alone or in combination, require more than "replacing manual means with mechanical or automatic means to accomplish the same results," as achieved by the present independent claims 1 and 26, for example, and as achieved by the present dependent claims.

The applicant hereby traverses the examiner's rejection based on the examiner's factual findings for failing to provide sufficient reason or explicit analysis of why the disclosures of the references should be combined.

For at least these reasons, the present independent claims 1 and 26, and corresponding dependent claims, are patentable over the cited references, either alone or in combination. Therefore, the applicant respectfully request that the examiner's rejection of claims 1-15 and 17-30, under 35 USC 103(a) as being unpatentable over the Applicant's disclosed baler, or cited Lundahl, et al in view of Van Eecke, et al. and Vellidus, et al. and Hale, et al., be withdrawn.

4. The applicant amended claims 27-35 to delete the claim language "the step(s) of."

5. The applicant adds new claims 61 and 62 for consideration by the examiner. The applicant submits that new claims 61 and 62 are allowable over the cited references for the same reasons as described above.

6. The examiner objected to claims 16 and 31-35 for being dependent on a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The applicant appreciates the examiner's indication of allowable claims.

7. The applicant respectfully submits that claims 1-35 describe an improved agricultural bale accumulator advantageously providing increased bale accumulating capacity, and/or intelligent bale receipt, accumulation, and bale discharge operations to permit efficient, flexible, and desirable harvesting of hay and forage crop material. The features of the claimed agricultural bale accumulator and/or its associated advantages are not taught by, suggested by, or obvious in view of the references of record, either alone or in combination.

8. The applicant respectfully submits that no new matter has been added to the amended or new claims.

9. In view of the foregoing, Applicant submits that all pending claims are in condition for allowance. Applicant respectfully requests the reconsideration and reexamination of this application and the timely allowance of the pending claims. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the phone number provided below.

10. The applicants submit herewith a petition under 37 CFR 1.136 for a three month extension of time with an associated fee. This request and amendment is filed on Monday, December 1, 2008, under the Certificate of Mailing pursuant to 37 CFR 1.18, within the three month shortened statutory period set for reply in the Final rejection dated May 29, 2008, plus a three month extension of time under 37 CFR 1.136(a), which expires Saturday, November 29, 2008, pursuant to MPEP 710.01(a).

11. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,  
Kaschke, et al.

Dated: Dec. 1, 2008

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### In the Claims

1. (Currently Amended) An agricultural bale accumulator comprising:

a hitch assembly adapted to mechanically couple a front side of the agricultural bale accumulator to a mating hitch assembly on a rear side of an agricultural baler to permit the agricultural bale accumulator to be towed by the agricultural baler across an agricultural field;

a load bed adapted to receive, along a bale receiving axis, agricultural bales of crop material formed by and ejected from the agricultural baler, ~~and~~ adapted to accumulate at least one agricultural bale of the received agricultural bales on the load bed, and adapted to discharge at least one agricultural bale of the accumulated agricultural bales from the load bed to the agricultural field, wherein the agricultural bale accumulator receives, accumulates, and discharges the agricultural bales while the agricultural baler tows the agricultural bale accumulator across the agricultural field; and

a controller adapted to generate a control signal to control an operation of the agricultural bale accumulator, while the agricultural bale accumulator receives, accumulates, and/or discharges the agricultural bales and while the agricultural baler tows the agricultural bale accumulator across the agricultural field, in response to receiving a location signal, representative of a location of the agricultural bale accumulator in ~~an~~ the agricultural field, to cause the agricultural bale accumulator to perform the operation, while the agricultural bale accumulator receives, accumulates, and/or discharges the agricultural bales and while the agricultural baler tows the agricultural bale accumulator across the agricultural field, in response to the location of the agricultural bale accumulator in an agricultural field.

2. (Previously Amended) An agricultural bale accumulator, according to claim 1, wherein the controller is adapted to generate the control signal to cause the agricultural bale accumulator to determine a count of one or more of the agricultural bales in response to receiving the location signal.

3. (Previously Amended) An agricultural bale accumulator, according to claim 1, wherein the controller is adapted to generate the control signal to cause the agricultural bale accumulator to determine a size of one or more of the agricultural bales in response to receiving the location signal.

4. (Previously Amended) An agricultural bale accumulator, according to claim 1, wherein the controller is adapted to generate the control signal to cause the agricultural bale accumulator to determine a moisture content of one or more of the agricultural bales in response to receiving the location signal.

5. (Previously Amended) An agricultural bale accumulator, according to claim 1, wherein the controller is adapted to generate the control signal to cause the agricultural bale accumulator to

determines a weight of one or more of the agricultural bales in response to receiving the location signal.

6. (Previously Amended) An agricultural bale accumulator, according to claim 1, wherein the controller is adapted to generate the control signal to cause the agricultural bale accumulator to determine a location of one or more of the agricultural bales discharged in the agricultural field from the load bed in response to receiving the location signal.

7. (Previously Amended) An agricultural bale accumulator, according to claim 1, wherein the controller is adapted to generate the control signal to cause the agricultural bale accumulator to determine a distance traveled in the agricultural field by the agricultural bale accumulator in response to receiving the location signal.

8. (Previously Amended) An agricultural bale accumulator, according to claim 1, wherein the controller is adapted to generate the control signal to cause the agricultural bale accumulator to determine a path traveled in the agricultural field by the agricultural bale accumulator in response to receiving the location signal.

9. (Previously Amended) An agricultural bale accumulator, according to claim 1, wherein the controller is adapted to generate the control signal to cause the agricultural bale accumulator to determine a contour of the agricultural field traveled by the agricultural bale accumulator in response to receiving the location signal.

10. (Previously Amended) An agricultural bale accumulator, according to claim 1, wherein the controller is adapted to generate the control signal to cause the agricultural bale accumulator to determine a size of the agricultural field traveled by the agricultural bale accumulator in response to receiving the location signal.

11. (Previously Amended) An agricultural bale accumulator, according to claim 1, further comprising:

a field position locator adapted to provide the location signal.

12. (Previously Amended) An agricultural bale accumulator, according to claim 11, wherein the field position locator further comprises:

a global positioning system (GPS) receiver.

13. (Previously Amended) An agricultural bale accumulator, according to claim 11,

wherein the agricultural bale accumulator is adapted to be towed by the agricultural baler, and wherein the agricultural baler is adapted to be towed by a tractor,  
wherein the field position locator is carried by the agricultural bale accumulator, or the agricultural baler, or the tractor.

14. (Previously Amended) An agricultural bale accumulator, according to claim 1,  
wherein the controller is adapted to generate the control signal to cause the agricultural bale accumulator to control the receipt and/or the accumulation of one or more of the agricultural bales on the load bed in response to receiving the location signal.
15. (Previously Amended) An agricultural bale accumulator, according to claim 14, further comprising:  
a bale transfer module adapted to transfer at least one agricultural bale of the agricultural bales across the load bed along a bale transfer axis, horizontally transverse to the bale receiving axis, in response to receiving a bale transfer control signal generated by the controller.
16. (Previously Amended) An agricultural bale accumulator, according to claim 14, further comprising:  
a bale stacking module adapted to form at least one stack of agricultural bales, including at least two agricultural bales of the agricultural bales, along a bale stacking axis, vertically transverse to the bale receiving axis, in response to receiving a bale stacking control signal generated by the controller.
17. (Previously Amended) An agricultural bale accumulator, according to claim 14, further comprising:  
a bale arrangement control module adapted to arrange at least one agricultural bale of the agricultural bales on the load bed in response to receiving a bale arrangement control signal generated by the controller.
18. (Previously Amended) An agricultural bale accumulator, according to claim 14, further comprising:  
a bale stabilization module adapted to stabilize at least one agricultural bale of the agricultural bales accumulated on the load bed in response to receiving a bale stabilization control signal generated by the controller.
19. (Previously Amended) An agricultural bale accumulator according to claim 14, further comprising:

a bale advancement module adapted to advance at least one agricultural bale of the agricultural bales along the bale receiving axis onto the load bed in response to receiving a bale advancement control signal generated by the controller.

20. (Previously Amended) An agricultural bale accumulator, according to claim 1, further comprising:

a bale discharge module adapted to discharge at least one agricultural bale of a agricultural bales accumulated on the load bed to a ground surface of the agricultural field in response to receiving a bale discharge control signal generated by the controller.

21. (Previously Amended) An agricultural bale accumulator, according to claim 20, further comprising:

a permissive bale discharge module adapted to discharge at least one agricultural bale of the agricultural bales accumulated on the load bed from a bale receiving portion of the load bed to the ground surface in response to receiving a permissive bale discharge control signal generated by the controller.

22. (Previously Amended) An agricultural bale accumulator, according to claim 20, further comprising:

a selective bale discharge module adapted to selectively discharge at least one agricultural bale of the agricultural bales accumulated on the load bed from the load bed to the ground surface in response to receiving a selective bale discharge control signal generated by the controller.

23. (Previously Amended) An agricultural bale accumulator, according to claim 20, further comprising:

a bale advancement module adapted to advance at least one agricultural bale of the agricultural bales along the bale receiving axis in response to receiving a bale advancement control signal.

24. (Previously Amended) An agricultural bale accumulator, according to claim 20, further comprising:

a bale speed control discharge module adapted to control a rate of speed at which at least one agricultural bale of the agricultural bales is discharged from the load bed to the ground surface in response to receiving a bale speed discharge control signal generated by the controller.

25. (Previously Amended) An agricultural bale accumulator, according to claim 1, further comprising:

a user interface module adapted to provide an interface between the agricultural bale accumulator and a user in response to receiving a user interface control signal generated by the controller.

26. (Currently Amended) A method for operating an agricultural bale accumulator, having a hitch assembly adapted to permit the agricultural bale accumulator to be towed by the agricultural baler across an agricultural field, comprising the steps of:

receiving on a load bed, along a bale receiving axis, agricultural bales of crop material formed by and ejected from the agricultural baler, and accumulating at least one agricultural bale of the received agricultural bales on the load bed, and discharging at least one agricultural bale of the accumulated agricultural bales from the load bed to the agricultural field, wherein the agricultural bale accumulator receives, accumulates, and discharges the agricultural bales while the agricultural baler tows the agricultural bale accumulator across the agricultural field;

receiving a location signal representative of a location of the agricultural bale accumulator in an agricultural field;

generating a control signal in response to receiving the location signal; and

controlling an operation of the agricultural bale accumulator, while the agricultural bale accumulator receives, accumulates, and/or discharges the agricultural bales and while the agricultural baler tows the agricultural bale accumulator across the agricultural field, in response to receiving the control signal to cause the agricultural bale accumulator to perform the operation, while the agricultural bale accumulator receives, accumulates, and/or discharges the agricultural bales and while the agricultural baler tows the agricultural bale accumulator across the agricultural field, in response to the location of the agricultural bale accumulator in an agricultural field.

27. (Currently Amended) A method for operating an agricultural bale accumulator, according to claim 26, wherein the step of receiving the location signal further comprises the steps of:

receiving a plurality of input signals transmitted by a plurality of global positioning satellites; and

processing the plurality of input signals to provide the location signal.

28. (Currently Amended) A method for operating an agricultural bale accumulator, according to claim 26, wherein the step of receiving the location signal further comprises the steps of:

receiving an initialization signal indicative of a starting location of the agricultural bale accumulator in the agricultural field;

receiving an input signal from a compass;

determining a distance traveled by the agricultural bale accumulator in the agricultural field;

and



processing the initialization signal, the input signal from the compass, and the distance traveled by the agricultural bale accumulator in the agricultural field to determine the location of the agricultural bale accumulator in the field.

29. (Currently Amended) A method for operating an agricultural bale accumulator, according to claim 26, wherein the step of controlling the operation of the agricultural bale accumulator further comprises the step of:

receiving and/or accumulating one or more of the agricultural bales on the load bed in response to receiving the control signal.

30. (Currently Amended) A method for operating an agricultural bale accumulator, according to claim 26, wherein the step of controlling the operation of the agricultural bale accumulator further comprises the step of:

discharging at least one agricultural bale of the agricultural bales accumulated on the load bed to a ground surface of the agricultural field in response to receiving the control signal.

31. (Currently Amended) A method for operating an agricultural bale accumulator, according to claim 30, further comprising the steps of:

determining a present number of agricultural bales received and accumulated on the agricultural bale accumulator;

determining whether the present number of agricultural bales received and accumulated on the agricultural bale accumulator is equal to or less than a predetermined bale accumulating capacity of the agricultural bale accumulator;

when it is determined that the present number of agricultural bales received and accumulated on the agricultural bale accumulator is equal to the predetermined bale accumulating capacity of the agricultural bale accumulator, then perform the step of:

determining whether the agricultural bale accumulator is located in or has recently passed through at least one predetermined bale discharge zone located in the field in response to the location of the agricultural bale accumulator in the field;

when it is determined that the agricultural bale accumulator is located in or has recently passed through the at least one predetermined bale discharge zone, then perform the step of:

discharging the present number of agricultural bales received and accumulated on the agricultural bale accumulator to the ground surface in or near the at least one predetermined bale discharge zone;

when it is determined that the agricultural bale accumulator is not located in or has not recently passed through the at least one predetermined bale discharge zone, then perform the steps of:

discharging some of the present number of agricultural bales received and accumulated on the agricultural bale accumulator to the ground surface prior to reaching a next predetermined bale discharge zone to be reached by the agricultural bale accumulator as the agricultural bale accumulator travels a remaining distance from a present location of the agricultural bale accumulator in the field to the next predetermined bale discharge zone in response to the location of the agricultural bale accumulator in the accumulator field and a location of the next predetermined bale discharge zone; and

continuing with the step of receiving and accumulating the agricultural bales on the agricultural bale accumulator;

when it is determined that the present number of agricultural bales received and accumulated on the agricultural bale accumulator is less than the predetermined bale accumulating capacity of the agricultural bale accumulator, then perform the step of:

determining whether the agricultural bale accumulator is located in or has recently passed through the at least one predetermined bale discharge zone;

when it is determined that the agricultural bale accumulator is located in or has recently passed through the at least one predetermined bale discharge zone, then perform the step of:

discharging the present number of agricultural bales received and accumulated on the agricultural bale accumulator from the agricultural bale equipment to the ground surface in or near the at least one predetermined bale discharge zone;

when it is determined that the agricultural bale accumulator is not located in or has not recently passed through the at least one predetermined bale discharge zone, then continuing with the step of:

receiving and accumulating the agricultural bales on the agricultural bale accumulator.

32. (Currently Amended) A method for operating an agricultural bale accumulator, according to claim 31, further comprising the steps of:

determining a past distance traveled by the agricultural bale accumulator in the field while the present number of agricultural bales were received and accumulated on the agricultural bale accumulator; and

determining an average number of agricultural bales received and accumulated on the agricultural bale accumulator over the past distance traveled by the agricultural bale accumulator in the field in response to the present number of bales received and accumulated on the agricultural bale accumulator and the past distance traveled by the agricultural bale accumulator in the agricultural field.

33. (Currently Amended) A method for operating agricultural bale accumulator, according to claim 32, wherein the step of discharging some of the present number of agricultural bales received and accumulated on the agricultural bale accumulator to the ground surface prior to reaching the next predetermined bale discharge zone further comprises ~~the steps of~~:

determining the remaining distance between the present location of the agricultural bale accumulator in the field and the next predetermined bale discharge zone in the field to be reached by the agricultural bale accumulator in response to the location of the agricultural bale accumulator in the field and the location of the next predetermined bale discharge zone in the field;

estimating a future number of bales to be received and accumulated on the agricultural bale equipment over the remaining distance between the present location of the agricultural bale accumulator in the field and the next predetermined bale discharge zone to be reached by the agricultural bale accumulator in response to the average number of agricultural bales received and accumulated on the agricultural bale accumulator over the past distance traveled by the agricultural bale accumulator in the field and the remaining distance between the present location of the agricultural bale accumulator in the field and the next predetermined bale discharge zone; and

discharging the estimated future number of agricultural bales to be received and accumulated on the agricultural bale accumulator from the load bed to a ground surface prior to reaching the next predetermined bale discharge zone as the agricultural bale accumulator travels the remaining distance from the present location of the agricultural bale accumulator in the field to the next predetermined bale discharge zone.

34. (Currently Amended) A method for operating an agricultural bale accumulator, according to claim 31, further comprising ~~the step of~~:

determining whether a future number of agricultural bales that the agricultural bale accumulator can receive and accumulate before the agricultural bale accumulator reaches the next predetermined bale discharge zone is greater than a remaining number of bales that the agricultural bale accumulator can receive and accumulate before reaching the predetermined bale accumulating capacity of the agricultural bale accumulator in response to determining that the present number of bales received and accumulated on the agricultural bale accumulator is less than the predetermined bale accumulating capacity of the agricultural bale accumulator, but prior to the step of discharging the present number of bales received and accumulated on the agricultural bale accumulator from the agricultural bale accumulator to the ground surface in or near the at least one predetermined bale discharge zone.

35. (Currently Amended) A method for operating an agricultural bale accumulator, according to claim 34, wherein the step of determining whether the future number of agricultural bales that the agricultural bale accumulator can receive and accumulate before the agricultural bale accumulator

reaches the next predetermined bale discharge zone is greater than the remaining number of agricultural bales that the agricultural bale accumulator can receive and accumulate before reaching the predetermined bale accumulating capacity of the agricultural bale accumulator further comprises the steps of:

subtracting the present number of agricultural bales received and accumulated on the agricultural bale accumulator from the predetermined bale accumulating capacity of the agricultural bale accumulator to determine the remaining number of agricultural bales that the agricultural bale equipment can receive and accumulate before the predetermined bale accumulating capacity of the agricultural bale accumulator reaches its maximum limit;

determining a remaining distance between a present location of the agricultural bale accumulator in the field and the next predetermined bale discharge zone to be reached by the agricultural bale accumulator;

multiplying the average number of bales received and accumulated on the agricultural bale accumulator over the distance traveled by the agricultural bale accumulator in the field by the remaining distance between a present location of the agricultural bale accumulator in the field and the next predetermined bale discharge zone to be reached by the agricultural bale accumulator to determine the future number of bales that the agricultural bale accumulator can receive and accumulate before the agricultural bale accumulator reaches the next predetermined bale discharge zone;

when it is determined that the future number of agricultural bales that the agricultural bale accumulator can receive and accumulate before the agricultural bale accumulator reaches the next predetermined bale discharge zone is greater than a remaining number of agricultural bales that the agricultural bale accumulator can receive and accumulate before reaching the predetermined bale accumulating capacity of the agricultural bale accumulator, then perform the step of:

discharging the present number of agricultural bales received and accumulated on the agricultural bale accumulator from the agricultural bale accumulator to the ground surface in or near the at least one predetermined bale discharge zone;

when it is determined that the future number of bales that the agricultural bale accumulator can receive and accumulate before the agricultural bale accumulator reaches the next predetermined bale discharge zone is not greater than a remaining number of agricultural bales that the agricultural bale accumulator can receive and accumulate before reaching the predetermined bale accumulating capacity of the agricultural bale accumulator, then continuing to perform the step of:

receiving and accumulating the plurality of agricultural bales on the agricultural bale accumulator.

61. (New) An agricultural bale system for harvesting one or more agricultural bales in an agricultural field, the agricultural bale system comprising:

a location determining system adapted to generate field location information responsive to determining a plurality of locations of the agricultural bale system in the agricultural field as the agricultural bale system travels across the agricultural field;

a bale monitoring system adapted to generate bale information for the one or more agricultural bales responsive to monitoring the one or more agricultural bales harvested by the agricultural bale system in the agricultural field; and

a controller, coupled to the location determining system and the bale monitoring system, adapted to:

determine an anticipated time that the bale information would reach a desired value;

determine an anticipated location of the agricultural bale system in the agricultural field at the anticipated time in response to receiving the field location information; and

control the agricultural bale system in response to the anticipated location of the agricultural bale system in the agricultural field.

62. (New) An agricultural bale system, according to claim 61, comprising:

a bale discharge module adapted to discharge one or more agricultural bales from the agricultural bale system onto the agricultural field;

wherein the controller, coupled to the bale discharge module, is adapted to cause the bale discharge module to discharge the one or more agricultural bales onto the agricultural field in response to the anticipated location of the agricultural bale system in the agricultural field.